Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0360	**Title:**	Refundable earned income tax credit
Primary Sponsor:	Caferro, Mary	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$21,224	$33,048	$33,048	$33,048
Revenue:				
General Fund	($27,449,000)	($28,029,000)	($28,624,000)	($29,230,000)
Net Impact-General Fund Balance:	($27,470,224)	($28,062,048)	($28,657,048)	($29,263,048)

Description of fiscal impact: This bill would provide a refundable income tax credit equal to 20% of the federal earned income credit. This credit would reduce general fund revenue by about $27 million in FY 2010, with the income reduction growing by about 2.1% per year.

FISCAL ANALYSIS

Assumptions:

1. Federal law allows an income tax credit equal to a percentage of earned income for taxpayers with earned income below a cap and investment income below another cap. This bill would provide a refundable credit against state income tax equal to 20% of the federal credit.
2. This fiscal note assumes that individuals who claim the federal credit would also claim the state credit. The latest year for which state-level data on the earned income credit has been published is 2006. For 2006, the IRS reports that 74,544 taxpayers with Montana addresses claimed $128.869 million in earned income credits.
3. From 2003 through 2006, the number of earned income credits claimed by taxpayers with Montana addresses was almost unchanged, while the amount of credits claimed grew at an average of 2.12% per year, primarily because of the inflation adjustments built into the credit.
4. This fiscal note assumes the number of taxpayers claiming the proposed credit each year would be the same as the number who claimed the federal credit for 2006, federal credits will continue to grow at

2.12% per year, and that state credits would be 20% of federal credits. The following table shows federal credits for 2006, projected credits for 2009 through 2012 and the corresponding state credits:

Tax Year	Federal Credits ($ million)	Growth Since 2006	Proposed State Credit ($million)
2006	$128.869	n/a	
2009	$137.245	6.50%	$27.449
2010	$140.145	8.75%	$28.029
2011	$143.122	11.06%	$28.624
2012	$146.150	13.41%	$29.230

5. Credits would be claimed on tax returns filed in the spring following each tax year. Eligible taxpayers would be unlikely to change their withholding in response to the possibility of receiving the credit. The credit therefore will result in larger refunds and smaller payments with returns. The credits for tax years 2009 through 2012 will result in the same reductions in general fund revenue for FY 2010 through FY 2013.
6. Changes to the income tax return and instructions would be made as part of the annual update process.
7. Rather than develop a new form, the Department of Revenue anticipates requiring taxpayers claiming the credit to file a copy of their federal Schedule EIC. Because of the large number of credit claims expected, the department would need to hire an additional 0.5 FTE auditing technician to process and audit credit claims. Annual salary for this position would be $15,248, and benefits would be $10,104 per year with a 2.5% inflation factor applied in FY 2012 and FY 2013. Operating costs would be $7,696 per year, and one time costs to set up a new employee of $4,900 would be incurred in FY 2010. The first returns claiming this credit would be filed in January 2010. The new position would be filled at this time, so personnel and operating costs in FY 2010 would be for half a year.

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
FTE	0.50	0.50	0.50	0.50
Expenditures:				
Personal Services	$12,676	$25,352	$25,986	$26,635
Operating Expenses	$3,648	$7,696	$7,696	$7,696
Equipment	$4,900	$0	$0	$0
TOTAL Expenditures	$21,224	$33,048	$33,682	$34,331
Funding of Expenditures:				
General Fund (01)	$21,224	$33,048	$33,682	$34,331
Revenues:				
General Fund (01)	($27,449,000)	($28,029,000)	($28,624,000)	($29,230,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($27,470,224)	($28,062,048)	($28,657,682)	($29,264,331)

<u>Technical Notes:</u>

1. Section (1)(4) of this bill would prevent part-year residents and non-residents from claiming the credit. Courts have consistently held that the equal protection clause of the U.S. Constitution requires a rational basis for this type of discrimination in the tax treatment of residents and non-residents.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*